

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

TAMMY HERSEY, as Personal	)	
Representative of the Estate of Jason	)	
Hersey,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CV-09-531-B-W
	)	
KEMPER INDEPENDENCE	)	
INSURANCE COMPANY,	)	
	)	
Defendant.	)	

**ORDER GRANTING MOTION TO DISMISS**

By Complaint dated September 29, 2009, Tammy Hersey, personal representative of the Estate of Jason Hersey, filed a reach and apply action in Superior Court for Aroostook County, state of Maine under 24-A M.R.S.A. § 2904 against Kemper Independence Insurance Company (Kemper). *Compl.* Attach. 2 (Docket # 1). Kemper duly removed the case to this Court on October 19, 2009 on the basis of diversity of citizenship, 28 U.S.C. § 1332. *Notice of Removal* (Docket # 1). On the same day, Kemper moved to dismiss Ms. Hersey's Complaint. *Mot. to Dismiss* (Docket # 5). Under Local Rule 7(b), Ms. Hersey was required to object to Kemper's motion within twenty-one (21) days or by November 9, 2009. D. Me. Local Rule 7(b). She failed to do so. The Rule provides that the failure to file a timely objection means that the non-objecting party "shall be deemed to have waived objection." *Id.*

Accordingly, the Court deems Ms. Hersey to have waived objection to Kemper's motion to dismiss by failing to file a timely objection. The Court hereby DISMISSES the Plaintiff's Complaint without prejudice.

SO ORDERED.

/s/ John A. Woodcock, Jr.  
JOHN A. WOODCOCK, JR.  
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 10th day of November, 2009